

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:17-cr-00044-MR-WCM-1**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSHUA DALE FULLER,

Defendant.

)
)
)
)
)
)
)
)
)
)

ORDER

THIS MATTER is before the Court on remand from the Court of Appeals for the Fourth Circuit. [Doc. 102].

The Court of Appeals having determined that the crime charged in Count One is a lesser included offense of that charged in Count Two, and the Defendant having been convicted on both such counts, the Court concludes that the Defendant's convictions on Counts One and Two are multiplicitous.

The Court of Appeals has determined that, notwithstanding the merger of the Defendant's conviction on Count One into his conviction on Count Two and the vacatur of his sentence on Count 1, the Defendant is not entitled to


be resentenced. [Id.]. Therefore, the Defendant's sentences as to Counts Two and Three, as previously imposed, remain undisturbed.

IT IS, THEREFORE, ORDERED that the Defendant's conviction on Count One is hereby **MERGED** into his conviction on Count Two, and his sentence on Count One is hereby **VACATED**. The previously entered Amended Judgment [Doc. 92] in this matter remains undisturbed in all other respects.

The Clerk of Court is respectfully directed to prepare a Second Amended Judgment in accordance with this Order.

IT IS SO ORDERED.

Signed: June 14, 2022



Martin Reidinger
Chief United States District Judge

